

APPENDIX 1

Selected Portions Of The Deposition Transcript Of Peter T. Bowman

ORIGINAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

INTOUCH GROUP, INC., a California :
corporation, :
Plaintiff :

vs. :

AMAZON.COM, INC., a Delaware :
corporation; LIQUID AUDIO, INC., a :
Delaware corporation; LISTEN.COM, :
INC., a California corporation; :
ENTERTAINDOM LLC, a Delaware :
corporation; DISCOVERMUSIC.COM, :
INC., a Delaware Corporation; and :
MUZE, INC., a New York corporation, :
Defendants :

Philadelphia, Pennsylvania
Monday, April 23, 2001

Videotape deposition of PETER T. BOWMAN,
taken pursuant to notice, at the Ritz-Carlton
Hotel, Broad and Chestnut Streets, on the above
date, beginning at approximately 9:44 a.m.,
before Cynthia A. Whyte, Registered
Professional Reporter and Notary Public.

VINCENT VARALLO ASSOCIATES, INC.
Registered Professional Reporters
Eleven Penn Center
1835 Market Street, Suite 600
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(Exhibit 114 was marked for identification.)

Q. Looking at your resume for a second, would you say that the resume accurately describes your educational background and your employment history?

A. Yes, I would.

Q. And one other question: When the user provided a user name and password, again we are back to around August 16, '95 and a few weeks after that, that information would then get associated with a session ID?

MR. HAFTER: Objection. Vague and ambiguous.

A. Yes.

Q. And through that would the system be able to track the user's progress through the Web site?

MR. HAFTER: Objection. Vague and ambiguous. Calls for speculation and lacks foundation as phrased.

A. It would be possible to track the user's activities -- let me preface that by saying as of August 16, 1995 it would be possible to track the user's actions based on the Apache Web log, Web server log file. Music Boulevard application did

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1 not record every step that the user took at the
2 application level. And I know we are going to have
3 followup questions to that one.
4

5 Again, back to the distinction between
6 the Apache Web server and the application server,
7 the Web server recorded every request that came into
8 it. As such, it recorded the request coming in that
9 identified the user name, password, session ID. All
10 of that information was on one incoming request.
11 All subsequent actions that the user took in that
12 session would be recorded in the log file with the
13 session ID in place, and so the Web server was
14 recording user ID, password, session ID and all
15 subsequent activity to the Web site.

16 Q. Okay. All right.

17 MR. OBLON: I think that's it for all of
18 my questions at this point. Thank very much.

19 THE WITNESS: My pleasure.

20 MR. HAFTER: Are your colleagues going
21 to be questioning now?

22 Why don't we go off the record for a
23 moment?

24 VIDEO TECHNICIAN: We are now going off
25 the record. The time 1:55.

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Mouse data entry.

Q. And it is your testimony that that policy was abandoned two to three weeks after the site launched?

A. I believe so. It was fairly quickly afterwards.

MR. HAFTER: I'm going to have marked a document as Exhibit 115.

(Exhibit 115 was marked for identification.)

Q. Have you ever seen this document before?

A. I don't know. Let me read it.

I don't believe I have.

Q. Do you see the date on the article toward the top of the page?

A. November 1, 1995.

Q. Now go down to the last paragraph, and it starts out by saying, "A short registration process allows immediate access to Music Boulevard." Do you see that?

A. Uh-huh.

Q. You have to answer "yes" or "no."

A. I'm sorry. Yes.

Q. As of November 1, 1995, was there a short



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A. Yes.

Q. I take it during the friends and family period the server also didn't record all of those events?

A. All of those were of interim. Yes, during the friends and family period leading up to the live launch on August 16 and for the time since then, Web servers record all activities that they see, that they receive.

Q. But during the friends and family period it is true that the Web server would not record activities undertaken through the use of the back or forward button on the browser, correct?

A. As long as those activities could be satisfied by the browser from within its own cash, yes.

Q. In other words, the testimony you gave about the backward and forward button on a browser having to do with the period in the last two weeks of August 1995 also applied to the friends and family period, correct?

A. Yes.

Q. From the time the friends and family period started to the end of the time where Telebase



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took at the application level. What did you mean by that?

A. I meant that in the time frame of August 16, 2001 -- excuse me -- 1995, that, as we discussed before, there was a Web server on the front end who fielded the initial -- who initially fielded the requests, passed them back to an application server who interpreted the request and prepared the response. The application server did not record click by click by click history of what the user was doing and stored away for all time as of August 15-16, 1995. We knew we had the information out there.

Q. Did the application server ever record the steps that the user took?

A. Yes.

Q. When?

A. 1997 issue.

Q. But from --

A. Actually, probably earlier than that.

Q. But from the time that the friends and family program launched, the Web server always tracked every step that the user took other than the backwards and forwards component of the browser that



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2 we talked about earlier?

3 A. Yes. It is an inherent characteristic of Web
4 servers that they record everything that comes in.

5 Q. And that included the specific time that a
6 user did something at the site?

7 A. It included the specific time as known by the
8 Web server.

9 Q. What does that mean?

10 A. It means that when a user -- it meant that if
11 a user in Boston and a user in California both hit
12 the button at the same time, that the Web server was
13 going to record that -- frankly, I have forgotten if
14 they record it in Greenwich meantime or eastern
15 United States time, but they would both be recorded
16 at the same time. We are not trying to record the
17 California time versus Boston time. The time does
18 not come from the browser. The time is relative to
19 the server.

20 Q. So, in other words, if we were looking at
21 some statistics earlier today in Exhibit 113 that
22 talked about the percentage of time that a session
23 started?

24 A. The distribution of start times, yes.

25 Q. Is that based on Greenwich?



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something went wrong, if they could remember what day they did it, what day they visited the site, we could limit our search to just those days' worth of files. These files did tend to get large. So let's take the easy case where they knew what date it was and they could generally tell us their user name, Joe. Just search using a UNIX tool called Grep, G-R-E-P. You do a GREP command which tells -- which is a command that searches through the entire contents of a file looking for a particular string pattern, and so you would do a GREP on the log files looking for Joe. When you found Joe, you would look at that particular line to decide if this is the right Joe and not Josephine or Aljobra (Phonetic) or something. That's the best I could do. Let's see her type that one in. And from that get the session ID that that user had at that session.

Now do the GREP again extracting all lines that contain that session ID, that will extract them, put them in a separate file and even give them to you in chronological order because that's how they were inherently in the file.

Q. Let me take that scenario and just change it a slight bit.



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